

**Plaintiff Lazare Kaplan International Inc.'s  
Revised Deposition Designations for Diane  
Grimmig 2/16/2016**

## TextMap Annotation Digest Report

**Case Name:** Plaintiff Lazare Kaplan International Inc.'s Revised Deposition Designations for Diane Grimmig  
2/16/2016

**Transcript:** [2/16/2016] Grimmig, Diane

**Issue Filter:** Revised Deposition Designations

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**Pg: 6 Ln: 21 - 25**

**Annotation:**

6:21 Q. Okay. Good morning, Ms. Grimmig.  
22 I'm Chris Sullivan and I'm with the law  
23 firm of Herrick Feinstein and we  
24 represent the Plaintiff in this case,  
25 Lazare Kaplan International.

**Pg: 7 Ln: 7 - 21**

**Annotation:**

7: 7 Q. Okay. And can you tell us where  
8 you live, what your current address is?  
9 A. I live at 62 Smith Street,  
10 Lynbrook, New York, 11563.  
11 Q. And how long have you lived  
12 there?  
13 A. Approximately 15 years.  
14 Q. What's your nationality?  
15 A. American.  
16 Q. So do I assume correctly that  
17 you speak and read English fluently?  
18 A. Yes, I do.  
19 Q. Do you -- and what other  
20 languages do you speak or read?  
21 A. No others.

**Pg: 8 Ln: 18 - Pg: 9 Ln: 6**

**Annotation:**

8:18 Q. I'm going to use a number of  
19 abbreviations for my questions. I'm  
20 going to -- for convenience sake, I'm  
21 going to refer to Lazare Kaplan  
22 International, Inc. as Lazare; to  
23 Lazare Kaplan Belgium as Lazare  
24 Belgium; to Antwerp Diamond Bank as  
25 ADB; to the New York office of ADB as  
9: 1 ADB New York; to KBC Bank as KBC; and  
2 to the New York branch of KBC as KBC  
3 New York, unless you or I specify  
4 otherwise.  
5 Do you understand that?  
6 A. Yes.

**Pg: 10 Ln: 8 - Pg: 11 Ln: 12**

**Annotation:**

10: 8 Q. Okay. What is the highest level  
9 of formal education that you've  
10 completed?

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**Pg: 10 Ln: 8 - Pg: 11 Ln: 12 continued...**

**Annotation:**

10:11 A. Law school.  
12 Q. And where did you obtain your  
13 law degree?  
14 A. Loyola University.  
15 Q. And when did you do so?  
16 A. I graduated, I believe, in 1986.  
17 Q. And where did you complete your  
18 undergraduate studies?  
19 A. Providence College.  
20 Q. Are you a member of any bars?  
21 A. Yeah. Yes. Yes.  
22 Q. Which bars?  
23 A. The New York bar.  
24 Q. Okay. Do you have any  
25 specialized training or education in  
11: 1 regard to diamonds or diamond  
2 companies?  
3 A. No.  
4 Q. Do you have any specialized  
5 training or education in regard to laws  
6 and regulations applicable to diamond  
7 transactions?  
8 A. No.  
9 Q. Do you have any specialized  
10 training or education in regard to  
11 correspondent bank accounts?  
12 A. No.

**Pg: 12 Ln: 15 - Pg: 13 Ln: 7**

**Annotation:**

12:15 Q. Now, you're currently employed  
16 by KBC. Is that correct?  
17 A. I'm employed by KBC New York.  
18 Q. KBC New York. So you're not  
19 employed by KBC as a Belgian institute,  
20 simply by the New York branch of KBC?  
21 A. KBC New York is the one that  
22 cuts my paycheck.  
23 Q. And have you ever been employed  
24 by KBC, itself?  
25 A. My employment has always been  
13: 1 through the KBC New York.  
2 Q. When did you first start working  
3 at KBC New York?  
4 A. 1987.  
5 Q. Okay. Did you do so right out of  
6 law school?  
7 A. Yes.

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**Pg: 17 Ln: 17 - 23**

**Annotation:**

17:17 Q. And what is your current job  
18 title or position at KBC New York?  
19 A. Managing Director.  
20 Q. Are you also General Counsel?  
21 A. I am head of the Legal  
22 Department and head of the Compliance  
23 Department.

**Pg: 70 Ln: 17 - Pg: 71 Ln: 25**

**Annotation:**

70:17 (Exhibit 136, Declaration of  
18 Diane Grimmig, was received and marked  
19 on this date for identification.)  
20 MS. GREDD: I have a copy that  
21 doesn't have a marking.  
22 MR. SULLIVAN: I stand corrected  
23 by Mr. D'Angelo and Ms. Gredd. Let's  
24 mark it.  
25 Q. Do you have P-136 in front of  
71: 1 you, Ms. Grimmig?  
2 A. Yes.  
3 Q. Is this the sworn Declaration  
4 that you submitted in this lawsuit?  
5 A. Yes.  
6 Q. Okay. Is that your signature on  
7 the last page of the Declaration, which  
8 I believe is page 8?  
9 A. Yes.  
10 Q. Okay. And above your signature  
11 you declared under penalty of perjury  
12 that the foregoing is true and correct.  
13 Do you see that?  
14 A. Yes.  
15 Q. And the Declaration is dated  
16 June 15, 2012. Correct?  
17 A. Yes.  
18 Q. As you sit here today, is there  
19 anything that you believe to be false  
20 or incorrect in your Declaration?  
21 A. No.  
22 Q. Who drafted this document?  
23 A. I did.  
24 Q. When did you do so?  
25 A. At the time requested.

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**Pg: 74 Ln: 22 - Pg: 82 Ln: 20**

**Annotation:**

74:22 (Exhibit 146, letter dated  
23 September 9, 2013 from KBC New York's  
24 attorney to Judge Andrew Carter, was  
25 received and marked on this date for  
75: 1 identification.)  
2 Q. Plaintiff's Exhibit 146 is a  
3 letter dated September 9, 2013 from KBC  
4 New York's attorney to Judge Andrew  
5 Carter of the United States District  
6 Court.  
7 Do you have that in front of  
8 you, Ms. Grimmig?  
9 A. Yes.  
10 Q. Did you review this letter to  
11 the Court before it was filed?  
12 A. Yes.  
13 Q. Do you recall there being  
14 anything inaccurate or untrue in the  
15 letter?  
16 A. No.  
17 Q. Would you turn to page 7 of the  
18 letter? Do you see in the second  
19 paragraph, where it says "KBC has  
20 agreed to produce the Services  
21 Agreement that Ms. Grimmig referred to  
22 in her Declaration, which governed the  
23 terms under which KBC's New York branch  
24 provided banking services to Antwerp  
25 Bank's customers in New York?"  
76: 1 Do you see those words in the  
2 second paragraph of the letter from  
3 KBC's counsel to the Court?  
4 A. Yes.  
5 Q. And you see the following  
6 sentence that reads "A copy of that  
7 agreement is attached hereto as Exhibit  
8 A?"  
9 A. Yes.  
10 Q. Do you agree with the statement  
11 in this letter that the Services  
12 Agreement annexed as an exhibit to the  
13 letter governed the terms under which  
14 KBC New York provided banking services  
15 to Antwerp's bank's customers in New  
16 York?  
17 A. It governed the agreement  
18 between ADB and New York branch with  
19 respect to the services that KBC New  
20 York would furnish to ADB's customers

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**Pg: 74 Ln: 22 - Pg: 82 Ln: 20 continued...**

### Annotation:

76:21 that had overdraft accounts with ADB.  
22 Q. So do you agree with your  
23 counsel's representation to the Court  
24 that the Services Agreement that is  
25 annexed as an exhibit to this letter  
77: 1 governed the terms under which KBC New  
2 York provided banking services to ADB's  
3 customers in New York?  
4 MR. FORESTA: Note my objection.  
5 You can answer.  
6 Q. Is that a true statement by your  
7 attorneys to the Court?  
8 A. It governed the handling --  
9 ADB's agreement with ADB to open a DDA  
10 account for ADB's customers in New  
11 York.  
12 Q. Is there a difference between  
13 what you just said and what your  
14 attorney said? Is that why you are  
15 rephrasing it?  
16 A. It's all interrelated.  
17 Q. Is it the same thing?  
18 A. It's the same thing, yes.  
19 Q. It is the same thing. And does  
20 the Services Agreement, the copy of the  
21 Services Agreement that is attached as  
22 Exhibit A to KBC's attorney's letter,  
23 accurately reflect the manner in which  
24 KBC New York provided such services to  
25 ADB's customers in New York, like  
78: 1 Lazare?  
2 A. It set forth how KBC New York  
3 would -- would handle ADB's customer's  
4 account, DDA account with KBC.  
5 Q. So the Services Agreement  
6 accurately sets forth the manner in  
7 which accounts would be handled? There  
8 is nothing in the Services Agreement  
9 that you disagree with or think is  
10 untrue?  
11 A. No.  
12 Q. Good. So your familiar with the  
13 Services Agreement?  
14 A. Yes, I am.  
15 Q. And Lazare was a customer of ADB  
16 in New York, correct?  
17 A. Yes.  
18 Q. A diamond company customer,  
19 correct?

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**Pg: 74 Ln: 22 - Pg: 82 Ln: 20 continued...**

**Annotation:**

78:20 A. Yes.  
21 Q. And did the Services Agreement,  
22 therefore, govern the banking services  
23 that KBC New York provided to Lazare?  
24 A. No.  
25 Q. Why not?  
79: 1 A. There was a separate account  
2 agreement between Lazare and KBC New  
3 York that set forth the terms and  
4 conditions of Lazare's DDA account with  
5 KBC New York.  
6 Q. Did that account agreement  
7 supersede anything in the Services  
8 Agreement?  
9 MR. FORESTA: Note my objection.  
10 You can answer.  
11 A. No. It's -- there are three  
12 parties to this transaction, to this  
13 relationship. So there is an agreement  
14 between ADB and KBC New York, and there  
15 is an agreement between ADB and Lazare  
16 and there is also an agreement between  
17 Lazare and KBC New York and there were  
18 multiple documents and various  
19 documents that reflected the  
20 relationship among the parties.  
21 Q. Perhaps we need to clarify the  
22 question.  
23 A. Okay.  
24 Q. I just asked you whether the  
25 Services Agreement governed the terms  
80: 1 under which KBC New York provided  
2 banking services to ADB's customers in  
3 New York.  
4 A. It sets forth the terms and  
5 conditions -- it sets forth KBC's New  
6 York agreement to provide -- it's an  
7 agreement between KBC New York and ADB  
8 that sets forth the terms and  
9 conditions under which KBC New York  
10 would furnish a DDA account to Lazare.  
11 Q. It spells out the operational  
12 banking services to be provided by KBC  
13 New York to ADB's customers, correct?  
14 MR. FORESTA: Note my objection.  
15 Q. That's what it says, Ms.  
16 Grimmig. Is it correct?  
17 A. It sets forth the terms and  
18 conditions under which KBC New York

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**Pg: 74 Ln: 22 - Pg: 82 Ln: 20 continued...**

**Annotation:**

80:19 agrees to provide a DDA account to  
20 customers of ADB in New York.  
21 Q. Is there anything in the  
22 Services Agreement that you believe to  
23 be incorrect or untrue?  
24 A. No.  
25 Q. Did KBC New York provide the  
81: 1 banking services spelled out in the  
2 Services Agreement to ADB's customers  
3 in New York?  
4 MR. FORESTA: Objection.  
5 Q. You can answer.  
6 MR. FORESTA: She already has  
7 multiple times.  
8 A. Yes.  
9 MR. SULLIVAN: Counsel, no  
10 colloquy on the record.  
11 A. Yes.  
12 Q. The answer is yes. Did you have  
13 any role, did you play any role in the  
14 development or preparation of the  
15 Services Agreement?  
16 A. The Legal Department would have  
17 played a role.  
18 Q. Who at the Legal Department  
19 played a role?  
20 A. I believe it was the General  
21 Counsel at the time.  
22 Q. Who is that?  
23 A. Michael Curran.  
24 Q. Do you know who drafted the  
25 Services Agreement?  
82: 1 A. No.  
2 Q. Did you read the deposition  
3 testimony of Philippe Loral in this  
4 case?  
5 A. I read it at the time, right  
6 after he gave his deposition.  
7 Q. Do you recall Mr. Loral  
8 testifying that he drafted the Services  
9 Agreement?  
10 A. I don't recall.  
11 Q. Is it correct that the Services  
12 Agreement that's referred or referenced  
13 by KBC's counsel letter and attached as  
14 Exhibit A to the letter is the same  
15 Services Agreement you referred to in  
16 your Declaration?  
17 A. Yes.



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**Pg: 74 Ln: 22 - Pg: 82 Ln: 20** continued...

**Annotation:**

82:18 Q. We're not talking about a  
19 different Services Agreement?  
20 A. No.

**Pg: 84 Ln: 4 - Pg: 100 Ln: 25**

**Annotation:**

84: 4 Q. Did you review the Services  
5 Agreement before signing your  
6 Declaration?  
7 A. Yes.  
8 Q. Did you rely on the Services  
9 Agreement in preparing your  
10 Declaration?  
11 A. Yes.  
12 Q. In fact, your Declaration was  
13 addressed, in part, to the banking  
14 services that KBC New York provided to  
15 Lazare pursuant to the Services  
16 Agreement, correct?  
17 MR. FORESTA: Note my objection.  
18 You can answer.  
19 A. The services that KBC provided  
20 to Lazare were governed by the account  
21 agreement between Lazare and KBC New  
22 York.  
23 Q. But you've told us that the  
24 services that are spelled out in the  
25 Services Agreement, the banking  
85: 1 services, were also provided by KBC New  
2 York to Lazare, correct?  
3 A. They were the beneficiary, yes.  
4 Q. So the answer is yes?  
5 A. Yes.  
6 Q. Would you take a look at your  
7 Declaration again?  
8 A. Yes.  
9 Q. Can you tell me where the words  
10 "Services Agreement" or "services level  
11 agreement" appear in your Declaration,  
12 Ms. Grimmig?  
13 A. I don't think it's specifically  
14 referenced, but its contents are  
15 discussed in my Declaration.  
16 Q. Okay. So let's start with  
17 specific reference. There is no  
18 reference in the Services Agreement to  
19 the Service Agreement in your sworn  
20 Declaration, is there?

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**Pg: 84 Ln: 4 - Pg: 100 Ln: 25 continued...**

### Annotation:

85:21 A. Correct.  
22 Q. So your counsel's statement to  
23 the Court is incorrect in that regard,  
24 correct?  
25 A. Technically, yes.  
86: 1 Q. Technically, yes. Okay. And is  
2 it your testimony that you discussed,  
3 in your sworn Declaration, the contents  
4 of the Service Agreement? Is that your  
5 testimony?  
6 A. There are concepts, there are  
7 terms in the Service Agreement that are  
8 referenced in my Declaration.  
9 Q. Well, is there a disclosure of  
10 any kind in your sworn Declaration that  
11 KBC New York and ADB had a formal  
12 written agreement pertaining to the  
13 banking services to be provided by KBC  
14 New York to ADB's customers in New  
15 York? Is there a disclosure of any  
16 kind that there was a formal written  
17 agreement, Ms. Grimmig?  
18 Take a look at your Declaration  
19 if you like.  
20 (Whereupon, the Deponent reviews  
21 the document.)  
22 A. There is not a specific  
23 reference or naming of the servicing  
24 agreement, but the concepts in the  
25 servicing agreement are captured in my  
87: 1 Declaration.  
2 Q. Well, we'll get to the capture  
3 part of your testimony, but I'm asking  
4 you a different question.  
5 A. Sorry.  
6 Q. I'd like an answer to my  
7 question.  
8 A. Sorry.  
9 Q. My question is, did you tell  
10 Judge Carter in your Declaration that  
11 KBC New York and ADB had entered into a  
12 formal written agreement regarding the  
13 operational banking services to be  
14 provided by KBC New York to ADB's  
15 customers in New York?  
16 We know you didn't mention the  
17 Service Agreement. Did you tell the  
18 Court that there existed a formal  
19 written agreement?

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**Pg: 84 Ln: 4 - Pg: 100 Ln: 25 continued...**

### Annotation:

87:20 A. I did not.  
21 Q. You did not. So let me see if I  
22 understand correctly, you didn't  
23 disclose to the Court that -- the  
24 existence of the Service Agreement.  
25 You didn't disclose to the Court that  
88: 1 KBC New York and ADB had a formal  
2 written agreement with respect to the  
3 operational services to be provided by  
4 KBC New York to ADB's customers. You  
5 didn't produce or submit a copy of the  
6 Services Agreement to the Court. Is  
7 that all correct?  
8 A. I believe we produced a copy of  
9 the servicing agreement as part of the  
10 production of documents.  
11 Q. In discovery?  
12 A. Yes.  
13 Q. After the motions to the Court  
14 were decided?  
15 A. I don't know the timing of the  
16 discovery versus motions.  
17 Q. Take a look at the date of your  
18 attorney's letter to the Court  
19 enclosing the agreement, September 9,  
20 2013.  
21 Do you recall when the Motion to  
22 Dismiss, that your bank made to Judge  
23 Carter, was decided both by the  
24 District Court in the Second Circuit?  
25 A. I don't recall.  
89: 1 Q. I'll represent to you that it  
2 was before September, 2013, Ms.  
3 Grimmig.  
4 So is there anything incorrect  
5 about the facts that I just asked you;  
6 one, you didn't tell Judge Carter about  
7 the Services Agreement, about the  
8 existence of the Service Agreement;  
9 two, you didn't submit a copy of the  
10 Services Agreement to the Court; three,  
11 you didn't tell Judge Carter that KBC  
12 New York and ADB had entered into a  
13 formal written agreement regarding the  
14 operational banking services to be  
15 provided by KBC New York to ADB's  
16 customers in New York? Anything  
17 incorrect about those three facts?  
18 A. All I can tell you is we

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**Pg: 84 Ln: 4 - Pg: 100 Ln: 25 continued...**

### Annotation:

89:19 produced the servicing agreement as  
20 part of the discovery. I did not  
21 explicitly reference the Service  
22 Agreement in my Declaration, but I  
23 incorporated its terms in my  
24 Declaration.  
25 Q. Did you quote from the Services  
90: 1 Agreement in your Declaration anywhere?  
2 A. No, but I paraphrased.  
3 Q. You paraphrased?  
4 A. Yes.  
5 Q. So who made the decision, Ms.  
6 Grimmig, not to tell Judge Carter about  
7 the existence of the Service Agreement,  
8 not to give him a copy of the Service  
9 Agreement, not to quote from the  
10 Service Agreement, not even to tell him  
11 there was a formal written agreement  
12 that might apply to the banking  
13 services provided by KBC New York? Who  
14 made that decision, you?  
15 MR. FORESTA: Objection to the  
16 question.  
17 Q. You can answer.  
18 A. No.  
19 Q. Who made the decision?  
20 A. I don't know.  
21 Q. Did you give any thought  
22 whatsoever to submitting the Service  
23 Agreement that you summarized  
24 submitting it to the Court in  
25 connection with your attorney's motion?  
91: 1 A. I -- as part of the document  
2 production, I produced the Service  
3 Agreement.  
4 Q. After the motion was decided by  
5 the District Court in the Second  
6 Circuit Court of Appeals, why did you  
7 wait until then?  
8 MR. FORESTA: Objection.  
9 Q. Why didn't you do so prior?  
10 A. I produced it when I was  
11 required to provide it.  
12 Q. Is it your sworn testimony, Ms.  
13 Grimmig, that you accurately and  
14 honestly summarized the provisions of  
15 the Services Agreement in your sworn  
16 Declaration?  
17 A. Yes.

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**Pg: 84 Ln: 4 - Pg: 100 Ln: 25 continued...**

### Annotation:

91:18 Q. That's your sworn testimony?  
19 A. Yes.  
20 Q. And you weren't trying to  
21 mislead or deceive the Court by not  
22 disclosing or producing the Services  
23 Agreement, correct?  
24 A. Not at all.  
25 Q. You understood at the time you  
92: 1 signed your Declaration that KBC New  
2 York was claiming that it had nothing  
3 to do with the transactions in the  
4 Complaint, correct?  
5 MR. FORESTA: Objection.  
6 A. I stated that there was no  
7 allegation or claims asserted against  
8 KBC New York.  
9 Q. And did you understand that KBC  
10 New York was arguing to Judge Carter  
11 that this case should be litigated in  
12 Belgium instead of New York because it  
13 has no connection to Lazare's banking  
14 relationship at KBC New York? Did you  
15 understand that at the time you signed  
16 your Declaration?  
17 A. I understood that the  
18 allegations and the disputes related to  
19 transactions between Lazare and ADB.  
20 Q. Did you understand that KBC New  
21 York was arguing that it played a  
22 merely ministerial role in connection  
23 with the credit facility and that the  
24 case properly belongs in Belgium and  
25 New York, that it's centered in Belgium  
93: 1 and not New York? Did you understand  
2 that?  
3 A. Yes.  
4 Q. And so you summarized in your  
5 words the concepts in the Services  
6 Agreement instead of producing the  
7 Services Agreement?  
8 MR. FORESTA: Objection.  
9 A. Correct.  
10 Q. And you weren't trying to  
11 mislead or deceive Judge Carter in any  
12 way, correct?  
13 A. Correct.  
14 Q. Okay. Is there anything in the  
15 Services Agreement that contradicts the  
16 factual assertions in your Declaration,

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**Pg: 84 Ln: 4 - Pg: 100 Ln: 25 continued...**

### Annotation:

93:17 Ms. Grimmig?  
18 A. No.  
19 Q. Are you sure about that?  
20 A. I'm sure.  
21 Q. Do you know whether Veerle  
22 Snyers disclosed the existence of the  
23 Services Agreement or produced a copy  
24 in her sworn Declarations to the Court?  
25 A. I don't know.  
94: 1 Q. You reviewed her sworn  
2 Declarations prior to signing your own,  
3 did you not?  
4 A. I reviewed them. I don't know  
5 whether I reviewed them -- I reviewed  
6 them at the time that she had signed  
7 and delivered them. I don't know if  
8 that was before or after mine.  
9 Q. You actually cite to her  
10 Declaration in your own Declaration,  
11 Ms. Grimmig?  
12 A. Okay.  
13 Q. Does that mean to you that you  
14 looked at the Declaration --  
15 A. Yes.  
16 Q. -- before you signed it?  
17 You have to let me finish,  
18 please. The answer is yes?  
19 A. Yes.  
20 Q. How about Walter Haeck, he  
21 submitted sworn Declaration to the  
22 Court, didn't he?  
23 A. Yes.  
24 Q. Did he produce a copy of the  
25 Services Agreement?  
95: 1 A. I don't recall.  
2 Q. Did he quote from the Services  
3 Agreement in his Declaration?  
4 A. I don't recall.  
5 Q. Are you aware that you,  
6 Ms. Snyers, and Mr. Haeck all submitted  
7 sworn Declarations to the Federal  
8 District Court in this case regarding  
9 the banking services provided by KBC  
10 New York to Lazare and not one of you  
11 produced the Services Agreement or  
12 quoted from it? Are you aware of that?  
13 MR. FORESTA: Objection. You can  
14 answer.  
15 A. Yes.

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**Transcript:** [2/16/2016] Grimmig, Diane

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**Pg: 84 Ln: 4 - Pg: 100 Ln: 25 continued...**

### Annotation:

95:16 Q. Not one of you produced the  
17 Services Agreement, even though it  
18 governs, by your testimony, Ms.  
19 Grimmig, its terms under which KBC New  
20 York provided banking services to  
21 Lazare? Do you understand that?  
22 MR. FORESTA: Objection.  
23 A. It's -- the servicing agreement  
24 is an agreement between KBC New York  
25 and ADB. Lazare is not a party to the  
96: 1 Service Agreement.  
2 Q. Lazare is a beneficiary of the  
3 Services Agreement, according to you?  
4 Is that correct?  
5 A. The relationship between KBC New  
6 York and Lazare is governed by an  
7 account agreement, not the Service  
8 Level Agreement.  
9 Q. Is that why you made the  
10 decision not to tell Judge Carter about  
11 the Services Agreement?  
12 MR. FORESTA: Objection.  
13 Q. Did you think it was irrelevant  
14 to the issues before the Court?  
15 A. No. Again, we -- we -- I  
16 produced the Service Level Agreement as  
17 required.  
18 Q. You produced the agreement in  
19 September, 2013 in discovery after the  
20 Second Circuit reversed and remanded to  
21 the District Court for further  
22 proceedings. Is that correct?  
23 A. According to the timeline you've  
24 given me, yes.  
25 Q. Are you aware that the Service  
97: 1 Agreement requires ADB to open a  
2 pooling account at ADB -- at KBC New  
3 York, rather? Sorry.  
4 A. The account was already opened.  
5 Q. When was the pooling account  
6 opened at KBC New York?  
7 A. It was opened at -- I don't know  
8 the time but it's prior to the relevant  
9 time of this case.  
10 Q. Is it prior to the date of the  
11 Services Agreement, October, 1999?  
12 A. I believe so.  
13 Q. Okay.  
14 MR. FORESTA: Chris, we've been

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**Pg: 84 Ln: 4 - Pg: 100 Ln: 25 continued...**

### Annotation:

97:15 going about an hour and a half. Would  
16 this be a good time for a break?  
17 MR. SULLIVAN: Let's take five  
18 minutes.  
19 Q. So I ask you again, are you  
20 aware that the Services Agreement  
21 expressly requires ADB to open a  
22 pooling account at KBC New York?  
23 A. Yes, but the account was already  
24 opened.  
25 Q. But you're aware that the  
98: 1 agreement --  
2 A. Yes.  
3 Q. -- contains that express  
4 provision, correct?  
5 A. Correct.  
6 Q. And are you aware that the  
7 Services Agreement described how the  
8 pooling account operates in connection  
9 with bank accounts opened by New York  
10 diamond customers such as Lazare?  
11 MR. FORESTA: Objection. Go  
12 ahead. You can answer.  
13 A. Yes.  
14 Q. Okay. You didn't mention the  
15 pooling account in your Declaration,  
16 did you, Ms. Grimmig?  
17 A. No.  
18 Q. Veerle Snyers didn't mention the  
19 pooling account in her Declarations,  
20 did she?  
21 A. I don't recall.  
22 Q. Walter Haeck didn't mention the  
23 pooling account in his Declaration, did  
24 he?  
25 A. I don't recall.  
99: 1 Q. You do recall that you declared  
2 under penalty of perjury that the  
3 statements in your Declaration are true  
4 and correct, you do recall that?  
5 A. Yes.  
6 Q. You are a lawyer with a license  
7 to practice law in New York, are you  
8 not?  
9 A. Yes.  
10 Q. And you understand what it means  
11 to make a Declaration under oath?  
12 A. Yes.  
13 Q. Is there a reason why you didn't



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**Pg: 84 Ln: 4 - Pg: 100 Ln: 25 continued...**

### Annotation:

99:14 tell Judge Carter about the ADB pooling  
15 account at KBC New York?  
16 A. I think my Declaration mentioned  
17 that there was a -- ADB had an account  
18 with us.  
19 Q. Does it contain any reference to  
20 the pooling account?  
21 A. In KBC New York we do not call  
22 it a pooling account. It's just an ADB  
23 U.S. dollar account.  
24 Q. Can you point me to the  
25 reference in your Declaration that  
100: 1 describes the pooling account?  
2 (Whereupon, the Deponent reviews  
3 the document.)  
4 A. It mentions the Lazare Antwerp  
5 bank account.  
6 Q. But I'm asking you about the  
7 pooling account, or an account under  
8 any different terminology that you care  
9 to employ, is there a reference in your  
10 Declaration to the pooling account  
11 under any name, the ADB pooling account  
12 at KBC New York?  
13 A. No.  
14 Q. Were you trying to deceive the  
15 Court into granting KBC's motion by not  
16 informing Judge Carter about the ADB  
17 pooling account?  
18 A. Not at all.  
19 Q. Do you know why Veerle Snyers  
20 and Walter Haeck didn't tell the Court  
21 about the pooling account?  
22 A. No.  
23 Q. Did anyone tell you not to  
24 reference the pooling account?  
25 A. Not at all.

**Pg: 101 Ln: 9 - Pg: 113 Ln: 24**

### Annotation:

101: 9 Q. So would you turn to the  
10 Services Agreement that is next to your  
11 attorney's letter as an exhibit and  
12 it's also separate in front of you, I  
13 believe?  
14 And let's begin with -- you  
15 testified, I believe, that the pooling  
16 account, the ADB pooling account at KBC

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**Pg: 101 Ln: 9 - Pg: 113 Ln: 24 continued...**

### Annotation:

101:17 New York, was opened prior to the date  
18 of the Services Agreement which is  
19 October 15, 1999. Is that correct?  
20 A. Yes.  
21 Q. So you were aware at the time  
22 you signed your Declaration that ADB  
23 had opened a pooling account at the New  
24 York branch of KBC, is that correct?  
25 A. Yes.  
102: 1 Q. And looking at the Services  
2 Agreement, itself, do you see the  
3 fourth "whereas" clause that reads --  
4 it's on page 1, "ADB agrees to open a  
5 pooling account with KBC to fund the  
6 payments effectuated by KBC on behalf  
7 of the diamond clients." Do you see  
8 that "whereas" clause?  
9 A. Yes.  
10 Q. And the reference to KBC is to  
11 KBC New York. Is that correct?  
12 A. Yes.  
13 Q. And Lazare was one of the  
14 diamond clients that was covered by  
15 this provision, correct?  
16 A. Once ADB had opened up a DDA  
17 account with New York.  
18 Q. Once ADB had opened up --  
19 A. Sorry. Lazare had opened up.  
20 Q. That upon opening an account at  
21 KBC New York Lazare was covered by this  
22 provision?  
23 A. Would be -- have the benefits.  
24 Q. Would have the benefits of this  
25 provision. Okay.  
103: 1 And ADB maintained that pooling  
2 account at KBC New York consistently  
3 through the relevant period of time --  
4 A. Yes.  
5 Q. -- correct? Okay. And would you  
6 take a look at paragraph 3 on page 2 of  
7 the Services Agreement? Would you read  
8 the first sentence of paragraph 3 to  
9 us?  
10 A. "Each day KBC clears the  
11 customer's account via ADB's pooling  
12 under agreement advisement with the  
13 diamond client."  
14 Q. So does the reference to  
15 customer's account include Lazare from

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**Pg: 101 Ln: 9 - Pg: 113 Ln: 24 continued...**

### Annotation:

103:16 and after the time Lazare opened an  
17 account at KBC New York?  
18 A. Yes.  
19 Q. So under this provision KBC New  
20 York is clearing Lazare's account at  
21 KBC New York via ADB's pooling. Is that  
22 correct?  
23 A. We would be making debits and --  
24 every debit and credit entry on  
25 Lazare's KBC New York account, we would  
104: 1 make a corresponding or the reverse  
2 entry, debit and credit on the what you  
3 call ADB's pooling account.  
4 Q. And what is the reference to  
5 "agreement/advisement with the diamond  
6 client" mean?  
7 A. Every time there was a debit or  
8 credit to Lazare's DDA account at KBC  
9 New York we informed both Lazare and we  
10 also at the same time informed ADB.  
11 Q. And turning to the second  
12 sentence, do you see the sentence that  
13 reads "Credit positions on the diamond  
14 client's accounts are transferred to  
15 the pooling account as well?"  
16 Again, does the reference to  
17 "diamond clients" include Lazare from  
18 and after the time Lazare opened an  
19 account at KBC New York?  
20 A. Yes.  
21 Q. And can you explain how credit  
22 positions on Lazare's account would be  
23 transferred to ADB's pooling account at  
24 KBC New York?  
25 A. At the end of each day KBC New  
105: 1 York would look at the balance on  
2 Lazare's DDA account. If there was a  
3 credit on the account a debit entry  
4 would be made on Lazare's DDA account  
5 at KBC New York to zero it out and a  
6 corresponding credit would be made to  
7 ADB's pooling account.  
8 Q. And this process pertains to  
9 both debits and credits in Lazare's  
10 account at KBC New York, correct?  
11 A. Yes.  
12 Q. So let's look at how you went  
13 about describing the concept of  
14 paragraph 3 in your Declaration,

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**Pg: 101 Ln: 9 - Pg: 113 Ln: 24 continued...**

### Annotation:

105:15 Ms. Snyers -- Grimmig, sorry. Would you  
16 turn to paragraph 11 of your sworn  
17 Declaration?  
18 Do you see in the second  
19 sentence of paragraph 11 the sentence  
20 that begins "Similarly and as described  
21 in the Snyers reply Declaration, if the  
22 amounts deposited in the KBC account  
23 exceeded the amounts withdrawn from the  
24 account on any given day the excess  
25 funds would be swept out of the account  
106: 1 regardless of whether the funds were  
2 unused credits from the Lazare Antwerp  
3 Bank account or payments received from  
4 Lazare's customers and credited to the  
5 Lazare Antwerp Bank account. The amount  
6 of the overdraft outstanding at the  
7 Lazare Antwerp Bank account would be  
8 reduced by the amount swept into the  
9 Lazare Antwerp Bank account?"  
10 Is that statement by you to the  
11 Court, Ms. Grimmig, consistent with  
12 paragraph 3 of the Services Agreement?  
13 A. The shared agreement has more  
14 details than the description in the  
15 Declaration.  
16 Q. Well, can you explain to me how  
17 the pooling account factors into the  
18 description in paragraph 11 of your  
19 Declaration that I just read out loud?  
20 What part of that pertains to the  
21 pooling account?  
22 A. So as I say, at the end of the  
23 day if there is a credit balance on  
24 Lazare's DDA account with KBC New York,  
25 KBC New York would put a debit entry on  
107: 1 the Lazare DDA account and then would  
2 make a credit entry on ADB's pooling  
3 account with -- to zero out Lazare's  
4 DDA account, and then once the funds  
5 are in the ADB's pooling account, ADB  
6 could do with those funds what it  
7 wanted to.  
8 Q. So, Ms. Grimmig --  
9 A. Let me step back. Sorry. Can I  
10 --  
11 Q. Please.  
12 A. So every time there was a debit  
13 or credit on the Lazare DDA account,

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**Pg: 101 Ln: 9 - Pg: 113 Ln: 24 continued...**

### Annotation:

107:14 notification was given to Lazare at the  
15 same time we were giving SWIFT messages  
16 in real-time informing ADB of debits  
17 and credits so that that ADB could be  
18 making entries on the Lazare's  
19 overdraft account at ADB.  
20 Q. So according to the Services  
21 Agreement, Lazare's credit position was  
22 reduced by the amount of funds that KBC  
23 New York swept into ADB's pooling  
24 account at KBC New York, correct?  
25 A. Correct.  
108: 1 Q. And that reduction was achieved  
2 via internal entries --  
3 A. Right.  
4 Q. -- to quote the Services  
5 Agreement, made by ADB upon receipt of  
6 notice, via informational SWIFT  
7 messages from KBC New York. Correct?  
8 Sorry, you have to answer out layout.  
9 Court reporter can't take down a nod.  
10 A. Sorry. Correct.  
11 Q. So to be clear, the funds,  
12 positive or negative, from Lazare's  
13 bank account at KBC New York were swept  
14 by KBC New York into ADB's pooling  
15 account at KBC New York, correct?  
16 A. Correct.  
17 Q. So, Ms. Grimmig, it's not true  
18 then that KBC New York swept funds from  
19 Lazare's bank account at KBC New York  
20 into an alleged Lazare bank account at  
21 ADB Belgium, is it?  
22 MR. FORESTA: Objection. You  
23 can answer.  
24 A. KBC New York only had authority  
25 to withdraw funds out of Lazare's DDA  
109: 1 account and put them into ADB's pooling  
2 account. Once the money was in ADB's  
3 pooling account, ADB could do what it  
4 wanted with those funds, and if they  
5 wanted to move those funds out of the  
6 ADB pooling account to anyplace else,  
7 they had the right to do so.  
8 Q. But that's not what you told the  
9 Judge. In your Declaration you told the  
10 Judge, under oath, that the monies in  
11 Lazare's bank account, the balance,  
12 positive or negative, was swept into an

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**Pg: 101 Ln: 9 - Pg: 113 Ln: 24** continued...

### Annotation:

109:13 alleged bank account in Belgium. You  
14 left out the pooling account. You left  
15 out the fact that the sweeping process  
16 went from Lazare bank account at KBC  
17 New York to ADB bank account at KBC New  
18 York. Why did you do that?  
19 MR. FORESTA: Objection. You can  
20 answer.  
21 A. Because ultimately the funds  
22 went to ADB.  
23 Q. So you made the decision not to  
24 tell Judge Carter about the  
25 intermediate step, you jumped right to  
110: 1 "ultimately". Is that your testimony,  
2 Ms. Grimmig?  
3 MR. FORESTA: Objection.  
4 A. The Declaration is supposed to  
5 give as accurate a description of the  
6 process as possible, but it's not meant  
7 to contain every nitty-gritty detail of  
8 the process.  
9 Q. Is that -- is the pooling  
10 account a nitty-gritty detail, Ms.  
11 Grimmig? Is that your testimony?  
12 A. My testimony is that at the end  
13 of the day what was important to  
14 disclose was that the funds ultimately  
15 went into the possession of ADB.  
16 Q. Who made the decision as to what  
17 was important to disclose to Judge  
18 Carter in connection with your  
19 attorney's motion, you?  
20 MR. FORESTA: Note my objection.  
21 Q. You?  
22 MR. FORESTA: I'll just caution  
23 you not to disclose sum or substance of  
24 any discussions that you had with  
25 counsel, to the extent you did.  
111: 1 A. It was not my -- I did not take  
2 a decision.  
3 Q. You didn't make the decision not  
4 to disclose to Judge Carter in this  
5 lawsuit the existence of the pooling  
6 account or the operation of the pooling  
7 account? Is that your testimony?  
8 MR. FORESTA: Objection. You can  
9 answer.  
10 A. In my Declaration I made a  
11 disclosure of the process of the

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**Pg: 101 Ln: 9 - Pg: 113 Ln: 24 continued...**

### Annotation:

111:12 handling of the KBC New York DDA  
13 account for Lazare and KBC New York's  
14 handling of ADB's pooling account. I  
15 did not provide nitty-gritty details.  
16 Q. You knew at the time you signed  
17 your Declaration that no money went to  
18 or from Belgium in this process, didn't  
19 you, Ms. Grimmig?  
20 A. I don't know that's a true  
21 statement. ADB -- the funds went into  
22 -- the funds were owned by ADB. ADB  
23 can do with those funds as it wanted  
24 to.  
25 Q. We're talking about the  
112: 1 allegation or the factual assertion in  
2 your Declaration regarding the movement  
3 of monies, positive or negative  
4 balances, out of Lazare's bank account?  
5 A. Okay.  
6 Q. And I'm asking you whether you  
7 knew at the time you signed your  
8 Declaration under oath that the money,  
9 the positive or negative balance moved  
10 from Lazare's bank account in New York  
11 to ADB's bank account in New York? Did  
12 you know that at the time you signed  
13 your Declaration?  
14 A. I knew that KBC New York would,  
15 at the end of the day, put a debit  
16 entry on Lazare's DDA account and make  
17 a corresponding credit entry on ADB's  
18 U.S. what you call pooling account.  
19 Once those funds went into the pooling  
20 account, ADB had the right to do with  
21 those funds as it pleased.  
22 Q. And you testified earlier, I  
23 believe, that you drafted your  
24 Declaration?  
25 A. Yes, I did.  
113: 1 Q. So without disclosing anything  
2 that your attorneys may have said to  
3 you, did you discuss with anyone before  
4 signing your Declaration the decision  
5 to describe the contents of the  
6 Services Agreement in the manner in  
7 which you did?  
8 A. I wrote it, so...  
9 Q. Did you discuss with anyone the  
10 decision not to tell Judge Carter about

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**Pg: 101 Ln: 9 - Pg: 113 Ln: 24 continued...**

**Annotation:**

113:11 the pooling account, the movement of  
12 monies or the Services Agreement --  
13 MR. FORESTA: Objection.  
14 Q. -- other than counsel?  
15 MR. FORESTA: You can answer.  
16 A. No, but --  
17 Q. Sorry.  
18 A. -- but the shared agreement was  
19 not deemed -- I did not -- as long as I  
20 disclosed the process, I didn't think  
21 it was necessary to explicitly  
22 reference the shared agreement. There  
23 was no intention to -- to hide or --  
24 the existence of the sharing agreement.

**Pg: 114 Ln: 4 - Pg: 118 Ln: 23**

**Annotation:**

114: 4 Q. I'm going to ask you to turn to  
5 the sworn Declaration submitted by  
6 Veerle Snyers to the Court, which is  
7 115 and 117. I'm going to direct to you  
8 page 6, paragraph 11 of Ms. Snyers'  
9 sworn Declaration, which is dated June  
10 18, 2012 -- sorry -- June 14, 2012, and  
11 in particular, subparagraph H on page  
12 6.  
13 Do you recall reviewing the  
14 language in paragraph 11(h) of  
15 Ms. Snyers' Declaration before signing  
16 your own Declaration?  
17 A. I recall reading her  
18 Declaration, but I don't remember the  
19 specifics.  
20 Q. Do you know who drafted Ms.  
21 Snyers' Declaration?  
22 A. It's my understanding that she  
23 drafted it, herself.  
24 Q. And did you consider Ms. Snyers  
25 competent to testify regarding the  
115: 1 matters discussed in her Declaration?  
2 A. As the author of her  
3 Declaration, I would say she was  
4 competent to testify with respect to  
5 it.  
6 Q. Do you know Ms. Snyers, other  
7 than casually?  
8 A. No.  
9 Q. You're not friends?



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**Pg: 114 Ln: 4 - Pg: 118 Ln: 23 continued...**

### Annotation:

115:10 A. No.  
11 Q. Did you take any steps to verify  
12 whether the statements in Ms. Snyers'  
13 Declaration were accurate and true  
14 before you signed your own Declaration?  
15 A. Yes.  
16 Q. What steps did you take?  
17 A. I discussed with our Cash  
18 Management and Payment Department how  
19 DDA accounts worked and the zero  
20 balancing of accounts worked.  
21 Q. And who is that person? What is  
22 the name of that person.  
23 A. Ruggerio Pestana.  
24 Q. Based here in New York?  
25 A. Yes.  
116: 1 Q. And directing your attention in  
2 particular to the last sentence of (h),  
3 11(h), do you see where it says "In  
4 addition, because the account at KBC  
5 New York is a Zero Balance Account any  
6 funds transferred into the KBC New York  
7 account are automatically credited to  
8 or swept into the customer's bank  
9 account at Antwerp Bank at the end of  
10 the day."  
11 Do you see where Ms. Snyers  
12 wrote that?  
13 A. Right.  
14 Q. She didn't reference the pooling  
15 account either, did she, in this  
16 description?  
17 A. No.  
18 Q. Do you know why?  
19 A. No.  
20 Q. Did you rely on the language in  
21 her Declaration, the "swept into the  
22 customer's bank account at Antwerp  
23 Bank?" Did you rely on that language  
24 in drafting your own Declaration?  
25 A. No. I relied on my conversations  
117: 1 with my Cash Management and Payment  
2 team, who told me every time there was  
3 a debit or credit to Lazare's DDA  
4 account with KBC New York, KBC New  
5 York, in real-time, would send a SWIFT  
6 message to ADB in -- in Belgium of the  
7 debit and credit so they could make a  
8 corresponding entry into the overdraft

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**Pg: 114 Ln: 4 - Pg: 118 Ln: 23 continued...**

**Annotation:**

117: 9 account that Lazare had at ADB.  
10 Q. And that corresponding entry is  
11 a book entry or an accounting entry?  
12 A. Yes.  
13 Q. Is that correct?  
14 A. KBC New York does not handle  
15 physical cash.  
16 Q. And dollars never leave America,  
17 do they, Ms. Grimmig?  
18 A. They can't.  
19 Q. Did they, in this case, ever  
20 leave?  
21 A. ADB's pooling account, yes, had  
22 both debits and credits to the account  
23 and so, the debit entry would require  
24 movement of funds.  
25 Q. Is it your testimony that U.S.  
118: 1 dollars moved from the pooling account  
2 to Belgium as opposed to accounting or  
3 bookkeeping entries?  
4 MR. FORESTA: Note my objection.  
5 Q. Was there a physical movement of  
6 dollars?  
7 A. We -- KBC New York does not  
8 handle physical cash, so movement of  
9 funds was done by -- by book entries.  
10 Q. And that's true of all the  
11 increases and decreases to Lazare's  
12 outstanding loan balance under the  
13 credit facility, correct? All that  
14 happened were book entries or  
15 accounting entries? All that happened  
16 in Belgium were book entries or  
17 accounting entries, correct?  
18 MR. FORESTA: Note my objection.  
19 Q. You can answer.  
20 A. That is how banks transfer  
21 money. You don't physically deliver  
22 cash, you do wire transfers of funds  
23 which are book entries.

**Pg: 140 Ln: 25 - Pg: 145 Ln: 11**

**Annotation:**

140:25 Q. Would you turn to your  
141: 1 Declaration again, paragraph 2 but at  
2 the top of page 2?  
3 A. Right.  
4 Q. Do you see the sentence, second

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**Pg: 140 Ln: 25 - Pg: 145 Ln: 11 continued...**

### Annotation:

141: 5 to last sentence that reads "I submit  
6 this Declaration to describe KBC's  
7 relationship with Lazare, its local  
8 partner banking relationship with  
9 Antwerp Bank etcetera etcetera"? Do  
10 you see where I'm reading from?  
11 A. Yes.  
12 Q. What does the reference to KBC's  
13 local partner relationship with Antwerp  
14 Bank mean?  
15 A. KBC New York provided a U.S.  
16 dollar account for ADB.  
17 Q. What is a local partner bank?  
18 A. I don't know.  
19 Q. Well, you wrote the Declaration.  
20 So --  
21 A. I think for me it was just  
22 describing that we opened up a U.S.  
23 dollar clearing account for ADB and we  
24 would open up a DDA account for ADB's  
25 U.S. customers to facilitate ADB's  
142: 1 overdraft account with the same  
2 customer.  
3 Q. But you knew at the time you  
4 wrote this that ADB had also opened a  
5 pooling account at KBC New York, a  
6 pooling account?  
7 A. That is what I call the U.S.  
8 dollar account. Sorry. It's --  
9 Q. How many different accounts did  
10 ADB open and/or maintain at KBC New  
11 York during the relevant period of  
12 time?  
13 A. I believe it had -- it had the  
14 U.S. dollar account, the pooling  
15 account.  
16 Q. Is that the only bank account  
17 you're aware of?  
18 A. I believe it might have also had  
19 a second account that was an expense  
20 account.  
21 Q. Is that a subaccount or a  
22 separate bank account?  
23 A. It's a separate bank account.  
24 Q. Were there any subaccounts to  
25 either of the pooling account or the  
143: 1 expense account?  
2 A. No.  
3 Q. What is an expense account?

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**Pg: 140 Ln: 25 - Pg: 145 Ln: 11 continued...**

### Annotation:

143: 4           A.     I believe it was an account used  
5           to cover ADB's cost and expenses with  
6           respect to the New York Rep Office. So  
7           it would cover their rental payments on  
8           the ADB New York reps sublease here in  
9           New York.  
10          Q.     ADB sublet its space from KBC  
11          New York?  
12          A.     Yes, it did.  
13          Q.     And it paid rent for that space?  
14          A.     Yes.  
15          Q.     Is the term "local partner bank"  
16          defined in any banking rules or  
17          regulations or laws that you're aware  
18          of?  
19          A.     No.  
20          Q.     Where did you get the term?  
21          A.     It was just a term describing --  
22          in this case, it was describing the --  
23          the KBC New York opening a DDA account  
24          on behalf of ADB's diamond customers in  
25          the U.S.  
144: 1          Q.     What is the difference between a  
2          local partner bank relationship and a  
3          correspondent bank relationship?  
4          A.     They can be the same.  
5          Q.     Can they be different?  
6          A.     They can be different.  
7          Q.     In what sense can they be  
8          different?  
9          A.     I think in this particular case  
10          we provided ADB with not just U.S.  
11          dollar clearing, but we also agreed to  
12          open up DDA accounts for ADB's diamond  
13          customers in the U.S. to facilitate an  
14          overdraft account between ADB and such  
15          diamond customers.  
16          Q.     Is a local partner bank  
17          relationship different in any other  
18          respect from a correspondent bank  
19          relationship?  
20          A.     It could be.  
21          Q.     In what other respects could it  
22          be different?  
23          A.     We could have -- if the bank  
24          provided any other services to ADB  
25          or...  
145: 1          Q.     So did I understand correctly  
2          that a local partner bank has a greater

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**Pg: 140 Ln: 25 - Pg: 145 Ln: 11 continued...**

**Annotation:**

145: 3 responsibility than a correspondent  
4 bank?  
5 A. Not greater. It could be  
6 different.  
7 Q. But you don't know where the  
8 term comes from?  
9 A. No. It's just a term I used to  
10 describe the relationship between ADB  
11 and myself -- and KBC New York.

**Pg: 145 Ln: 12 - Pg: 147 Ln: 25**

**Annotation:**

145:12 Q. Are the operational banking  
13 services that are described in the  
14 Service Agreement correspondent bank  
15 services?  
16 A. I think it -- no. It's more  
17 focused on -- I don't recall. I would  
18 have to read the agreement.  
19 Q. The Services Agreement?  
20 A. But I think the Service  
21 Agreement was primarily focusing on KBC  
22 New York agreeing to open up DDA  
23 accounts for ADB's customers to  
24 facilitate ADB's overdraft accounts  
25 with the same customer.  
146: 1 Q. Well, would you turn back to the  
2 Services Agreement, and in particular  
3 the second "whereas" clause on page 1?  
4 It's annexed to 57.  
5 MR. D'ANGELO: It's a separate  
6 document.  
7 Q. It's a pile in that folder.  
8 There should be a Services Agreement  
9 folder in there.  
10 So directing your attention to  
11 the second "whereas" clause, would you  
12 read that clause?  
13 A. "KBC agrees to provide certain  
14 operational services to ADB and to  
15 ADB's clients, hereinafter referred to  
16 as diamond clients, specifically  
17 allowing diamond clients to open  
18 current accounts in their books and  
19 effectuating both local and  
20 international payments and other  
21 banking services on behalf of the  
22 diamond clients."

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**Pg: 145 Ln: 12 - Pg: 147 Ln: 25 continued...**

**Annotation:**

146:23 Q. Thank you. So doesn't this  
24 clause indicate to you that KBC was  
25 agreeing to provide operational  
147: 1 services to ADB as well as to ADB's  
2 clients?  
3 That's what the clause says  
4 doesn't it, Ms. Grimmig?  
5 A. Yes.  
6 Q. So the services were not limited  
7 to the clients of ADB, they included  
8 services provided by KBC New York to  
9 ADB?  
10 A. With respect to ADB's clients.  
11 Q. Okay. So I ask you again, are  
12 the operational banking services  
13 described in the clause you just read  
14 correspondent banking services?  
15 A. No.  
16 Q. Why not?  
17 A. I view corresponding banking  
18 relationship to refer to the U.S.  
19 dollar clearing activity.  
20 Q. And do you view correspondent  
21 banking services to be limited to the  
22 U.S. dollar clearing activity?  
23 A. Typically the terminology is  
24 used with respect to U.S. dollar  
25 clearing activity.

**Pg: 146 Ln: 23 - Pg: 147 Ln: 25**

**Annotation:**

146:23 Q. Thank you. So doesn't this  
24 clause indicate to you that KBC was  
25 agreeing to provide operational  
147: 1 services to ADB as well as to ADB's  
2 clients?  
3 That's what the clause says  
4 doesn't it, Ms. Grimmig?  
5 A. Yes.  
6 Q. So the services were not limited  
7 to the clients of ADB, they included  
8 services provided by KBC New York to  
9 ADB?  
10 A. With respect to ADB's clients.  
11 Q. Okay. So I ask you again, are  
12 the operational banking services  
13 described in the clause you just read  
14 correspondent banking services?

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**Pg: 146 Ln: 23 - Pg: 147 Ln: 25 continued...**

**Annotation:**

147:15 A. No.  
16 Q. Why not?  
17 A. I view corresponding banking  
18 relationship to refer to the U.S.  
19 dollar clearing activity.  
20 Q. And do you view correspondent  
21 banking services to be limited to the  
22 U.S. dollar clearing activity?  
23 A. Typically the terminology is  
24 used with respect to U.S. dollar  
25 clearing activity.

**Pg: 148 Ln: 7 - 18**

**Annotation:**

148: 7 Q. Do you know whether KBC New York  
8 has an agreement with ADB concerning  
9 correspondent banking services, other  
10 than the Services Agreement? Is there a  
11 separate agreement of any kind?  
12 A. I would believe that there is an  
13 account opening agreement between ADB  
14 and KBC New York.  
15 Q. Other than the account opening  
16 agreement, is there another agreement  
17 of any kind --  
18 A. Not to my knowledge.

**Pg: 164 Ln: 8 - Pg: 167 Ln: 14**

**Annotation:**

164: 8 Q. Would you look at paragraph 4 of  
9 your Declaration, and in particular, to  
10 the second sentence that reads  
11 "Contrary to the statement in the  
12 Moryto Affidavit that KBC was a primary  
13 banker to Lazare, KBC's New York branch  
14 only provided basic account services  
15 for Lazare's KBC account which were  
16 incidental to Lazare's bank account at  
17 Antwerp Bank, etcetera." Do you see  
18 where I'm reading from?  
19 A. Yes.  
20 Q. Let me ask you a few questions  
21 about your definition of "bank account  
22 services."  
23 You told us that KBC New York  
24 provided the operational banking  
25 services that are described in the

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**Pg: 164 Ln: 8 - Pg: 167 Ln: 14 continued...**

### Annotation:

165: 1 Services Agreement, correct?  
2 A. Correct.  
3 Q. And according to the Services  
4 Agreement those operational banking  
5 services were provided through the bank  
6 account that ADB -- or bank accounts  
7 that ADB's customers in New York opened  
8 at KBC New York, correct?  
9 A. Correct.  
10 Q. Okay. And Lazare, one of ADB's  
11 diamond customers in New York, opened  
12 its bank account at the New York branch  
13 of KBC at the direction of ADB,  
14 correct?  
15 A. Yes.  
16 Q. And the operational banking  
17 services that KBC New York provided  
18 under the Services Agreement included  
19 accepting payment orders from Lazare  
20 under its credit facility with ADB,  
21 correct?  
22 A. Correct.  
23 Q. And matching the payment orders  
24 with Lazare's available credit under  
25 its credit facility, correct?  
166: 1 A. Correct.  
2 Q. And effectuating or executing  
3 the payments in accordance with  
4 Lazare's instructions, correct?  
5 A. Correct.  
6 Q. Accepting incoming payments to  
7 Lazare and booking them accordingly,  
8 correct?  
9 A. Correct.  
10 Q. Opening a pooling account for  
11 ADB at KBC New York to reimburse itself  
12 for the payments it made for Lazare,  
13 correct?  
14 A. Correct.  
15 Q. By agreement with Lazare,  
16 notifying ADB what it did via SWIFT  
17 electronic message so that ADB could  
18 adjust its records accordingly with  
19 respect to Lazare's outstanding loan  
20 balance, correct?  
21 A. Correct.  
22 Q. Is it your testimony, Ms.  
23 Grimmig, that each of these banking  
24 services that I've just read to you is



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**Pg: 164 Ln: 8 - Pg: 167 Ln: 14 continued...**

**Annotation:**

166:25 a basic account service?  
167: 1 A. Yes.  
2 Q. And do you consider these  
3 account services to be de minimus  
4 business dealings with Lazare?  
5 A. Yes.  
6 Q. And these banking services were  
7 all provided to Lazare here in New  
8 York, correct?  
9 A. With respect to KBC New York?  
10 Q. Yes.  
11 A. Yes.  
12 Q. And they're all services  
13 provided by KBC New York, correct?  
14 A. Correct.

**Pg: 167 Ln: 25 - Pg: 168 Ln: 9**

**Annotation:**

167:25 Q. Which bank disbursed to the  
168: 1 payee designated by Lazare, Ms.  
2 Grimmig? Who executed or effectuated  
3 the payment order?  
4 A. Out of the KBC New York account  
5 it was KBC New York.  
6 Q. Okay. Which bank accepted the  
7 repayment into the KBC -- Lazare's KBC  
8 New York bank account?  
9 A. KBC New York.

**Pg: 168 Ln: 20 - Pg: 171 Ln: 1**

**Annotation:**

168:20 Q. Which bank calculated the amount  
21 due under the credit facility before  
22 effectuating or executing Lazare's  
23 payment orders?  
24 A. ADB furnished the credit limit  
25 to KBC New York, so that KBC New York  
169: 1 could process payments based on the  
2 availability under the overdraft  
3 account.  
4 Q. Is that what the Services  
5 Agreement says, Ms. Grimmig, or is that  
6 what you say?  
7 A. That's how it worked.  
8 Q. What does the Services Agreement  
9 say? Let me direct your attention to  
10 paragraph 1.

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**Pg: 168 Ln: 20 - Pg: 171 Ln: 1 continued...**

**Annotation:**

169:11                   The second sentence, "KBC will  
12       keep records of the movements on the  
13       diamond client's accounts in order to  
14       be able to calculate the available  
15       credit against those lines."  
16       A.     In order to do so ADB had to  
17       first furnish to KBC New York the  
18       credit limit under the overdraft  
19       account between KBC New York -- between  
20       ADB and ADB's customer.  
21       Q.     Okay.  
22       A.     So we needed to know -- so ADB  
23       had to furnish the credit limit. Once  
24       that was -- KBC was informed of the  
25       credit limit, then KBC would process  
170: 1       payments, depending upon availability  
2       under the overdraft.  
3               KBC New York would inform both  
4       Lazare and ADB in real-time every time  
5       there was a debit or credit entry on  
6       the KBC New York account, so that a  
7       corresponding entry could be made on  
8       the ADB overdraft account. It's not one  
9       or the other. It's -- it starts -- it  
10       starts and ends with ADB.  
11       Q.     Where did ADB get the  
12       information about the transactions in  
13       Lazare's bank account? From where did  
14       ADB get the information?  
15       A.     KBC New York -- first of all,  
16       ADB would inform KBC New York about the  
17       credit limit and then if there was a  
18       debit entry on a KBC New York account  
19       on any particular day, KBC New York  
20       informed both Lazare and ADB in  
21       real-time of each and every debit and  
22       credit entry.  
23       Q.     So KBC New York was the source  
24       of the debit and credit information  
25       that ADB received?  
171: 1       A.     Yes.

**Pg: 174 Ln: 1 - 18**

**Annotation:**

174: 1       Q.     Did KBC New York perform  
2       enhanced due diligence procedures on  
3       any bank accounts or banking activities  
4       undertaken by New York diamond clients

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**Pg: 174 Ln: 1 - 18 continued...**

**Annotation:**

174: 5 of ADB?  
6 A. Diamond customers were in a risk  
7 category as being high risk, yes.  
8 Q. So the answer is yes?  
9 A. Yes.  
10 Q. How about enhanced due diligence  
11 with respect to ADB, the holder of the  
12 local partner bank or correspondent  
13 bank account at KBC New York?  
14 A. As you mentioned before, under  
15 the corresponding banking rules and  
16 regulations they're subject to  
17 additional AML documentation  
18 requirements.

**Pg: 189 Ln: 5 - Pg: 191 Ln: 16**

**Annotation:**

189: 5 Q. Ms. Grimmig, would you turn to  
6 Plaintiff's Exhibit 55, which is one of  
7 the loose documents in that pile in  
8 front of you in that folder?  
9 Do you recognize that document?  
10 A. Yes.  
11 Q. What is it?  
12 A. It's a Letter Agreement between  
13 ADB and Lazare.  
14 Q. And it's dated May 31, 2001. Is  
15 that correct?  
16 A. Yes.  
17 Q. It pertains to the bank account  
18 that Lazare opened at the New York  
19 branch of KBC, does it not?  
20 A. Yes.  
21 Q. And did anyone at KBC New York  
22 participate in the drafting of this  
23 document?  
24 A. No.  
25 Q. Do you know who drafted this  
190: 1 document?  
2 A. It's on ADB's letterhead, so I  
3 assume an ADB officer drafted it.  
4 Q. Are you acquainted with Philippe  
5 Loral?  
6 A. I know the name.  
7 Q. Do you know whether he drafted  
8 this document?  
9 A. No.  
10 Q. Have you ever met Mr. Loral?

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**Pg: 189 Ln: 5 - Pg: 191 Ln: 16 continued...**

**Annotation:**

190:11 A. No.  
12 Q. Ever spoken with him?  
13 A. No.  
14 Q. Do you know whether diamond  
15 clients of ADB, other than Lazare, who  
16 open accounts at KBC New York sign this  
17 kind of agreement?  
18 A. If they were opening up a DDA  
19 account to effectuate their overdraft  
20 account between ADB and themselves,  
21 then we would have got this document.  
22 KBC New York would have received this  
23 document.  
24 Q. Is it fair to say then that you  
25 are familiar with this form of  
191: 1 document?  
2 A. I've seen it, yes.  
3 Q. You've seen it in contexts other  
4 than Lazare?  
5 A. It would be part of the customer  
6 file.  
7 Q. When you say "part of the  
8 customer file", do you mean the account  
9 opening documentation that customers  
10 sign and submit to KBC New York in  
11 connection with bank accounts that they  
12 open at KBC New York?  
13 A. Yes. Customer file has the  
14 account opening documentation and KYC  
15 information and verification  
16 documentation.

**Pg: 192 Ln: 21 - Pg: 193 Ln: 6**

**Annotation:**

192:21 Q. Well, directing your attention  
22 to the first sentence that reads "We  
23 hereby agree that all disbursements and  
24 payments under our credit facility with  
25 Antwerpse Diamantbank NV has been  
193: 1 effected through our account with KBC  
2 NV New York branch and shall result in  
3 a same day debit or credit to our loan  
4 balance with Antwerpse Diamantbank NV",  
5 do you see that language?  
6 A. Yes.

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**Pg: 193 Ln: 17 - Pg: 195 Ln: 14**

### Annotation:

193:17 Q. Was this document signed  
18 pursuant to the Services Agreement that  
19 you testified about earlier this  
20 morning?  
21 A. It's a separate document.  
22 Q. Is it contemplated by the  
23 Services Agreement?  
24 A. I don't know if contemplated is  
25 the right word.  
194: 1 Q. Well, let me direct your  
2 attention to the Services Agreement,  
3 which you should also have in front of  
4 you in the loose pile. And in  
5 particular, to the third "whereas"  
6 clause that begins "In agreement with  
7 the diamond clients etcetera." Do you  
8 see that?  
9 A. Yes.  
10 Q. Is Plaintiff's 55 the agreement  
11 with the diamond clients that's  
12 referred to in the third "whereas"  
13 clause in the Services Agreement?  
14 MR. FORESTA: Note my objection.  
15 Go ahead and answer.  
16 A. You would need -- KBC New York  
17 would need this document in order to  
18 communicate information about debits --  
19 payments falling through KBC New York  
20 with the DDA account with Lazare.  
21 Q. Did KBC New York rely upon  
22 Plaintiff's 55 in order to communicate  
23 information to ADB about payments?  
24 A. Yes.  
25 Q. Did KBC New York keep either the  
195: 1 original or a copy of this document in  
2 its files?  
3 A. KBC would not have the original.  
4 It's a -- it's a document between ADB  
5 and Lazare. So either ADB -- both ADB  
6 and Lazare should have the original.  
7 KBC New York would have a copy.  
8 Q. But it was necessary for Lazare  
9 to sign this document in order to open  
10 its bank account at KBC New York. Is  
11 that correct?  
12 A. It was necessary for them to be  
13 able to open the account and utilize  
14 the account at KBC New York.

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**Pg: 197 Ln: 4 - Pg: 198 Ln: 24**

**Annotation:**

197: 4 Q. And moving up to paragraph 3,  
5 second paragraph, do you see where it  
6 says in the second clause, first clause  
7 second paragraph, "If these clearing  
8 operations yield a balance deficiency  
9 on the pooling account KBC New York  
10 will grant ADB an overnight placement  
11 on money market rates on a best efforts  
12 basis."  
13 A. Yes.  
14 Q. What is that talking about? What  
15 does that sentence mean?  
16 A. If -- if at the end of the day  
17 you would reconcile the DDA account of  
18 Lazare, if it had a debit balance you  
19 -- we would access funds out of ADB's  
20 pooling account.  
21 If the ADB pooling account did  
22 not have sufficient funds, KBC would  
23 lend funds to ADB in order to cover the  
24 negative balance.  
25 Q. And those funds would be loaned  
198: 1 or lent on money market rates?  
2 A. They would be lent on an  
3 overnight basis at a market rate.  
4 Q. And what does the sentence after  
5 that mean, the sentence that refers to  
6 "This placement will be against the  
7 presently established line at KBC New  
8 York etcetera?"  
9 A. KBC provided a -- had an  
10 overdraft limit with respect to the  
11 U.S. dollar accounts held by KBC  
12 entities, including ADB.  
13 Q. Can you explain what you mean  
14 when you say that they had an overdraft  
15 limit with respect to the accounts?  
16 A. Essentially, a line of credit  
17 with a maximum -- maximum amount that  
18 could be utilized.  
19 Q. So do I understand correctly  
20 that KBC extended a line of credit to  
21 ADB for use in connection with the  
22 arrangement discussed in this Services  
23 Agreement?  
24 A. KBC could extend credit to ADB.

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**Pg: 200 Ln: 7 - Pg: 204 Ln: 23**

**Annotation:**

200: 7 Q. Okay. Well, directing your  
8 attention to the first sentence of  
9 paragraph 3 that begins "Each day KBC  
10 clears customer's account via ADB's  
11 pooling etcetera", at what point in the  
12 day did KBC clear the customer's  
13 account?  
14 A. Lazare's?  
15 Q. Or any customer that is covered  
16 by this agreement.  
17 A. So intraday there would be  
18 debits and credits on Lazare's KBC New  
19 York DDA account in real-time. Those  
20 debits and credits were reported to  
21 Lazare and at the same time to ADB to  
22 make the corresponding entries on the  
23 overdraft account.  
24 At the end of the day KBC New  
25 York would reconcile the balance to see  
201: 1 whether or not there was a credit  
2 balance or a -- and if there was a  
3 credit balance the account would be  
4 zeroed out and there would be a debit  
5 on the KBC New York DDA account and  
6 there would be a credit to the ADB, as  
7 you call it, pooling account.  
8 Q. So the reconciliation took place  
9 at the end of the day, the settling of  
10 the transactions?  
11 A. The final settlement of the  
12 transactions, because debits and  
13 credits are made throughout the day on  
14 the -- on any bank account. They're not  
15 all done at the end of the day. It's  
16 done throughout the day, with a final  
17 reconciliation at the end of the day.  
18 Q. Why does the second paragraph  
19 refer to an overnight placement in the  
20 event that the clearing operations that  
21 you've described yield a balance  
22 deficiency on the pooling account?  
23 A. Because as I mentioned before,  
24 for administrative convenience we might  
25 not have made debit entries against  
202: 1 ADB's account to fund payment orders or  
2 for insufficient -- to cover the  
3 insufficient funds in the KBC New York  
4 DDA account during the day, we just  
5 would do one final settlement and

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**Pg: 200 Ln: 7 - Pg: 204 Ln: 23 continued...**

### Annotation:

202: 6 reconciliation at the end of the day.  
7 Q. And when KBC effectuates or  
8 executes a payment order from a  
9 customer like Lazare, under the  
10 arrangement described in this Services  
11 Agreement, where does KBC obtain the  
12 funds with which to fulfill or carry  
13 out that payment order?  
14 A. Ultimately, the funds are  
15 acquired from ADB.  
16 Q. In the first instance where does  
17 it obtain the funds? Whose funds does  
18 it use?  
19 A. First instance, the customer's  
20 funds. It's a DDA account. So they  
21 might have deposits of funds from their  
22 selling of goods and services to  
23 another counterparty. So the first  
24 source of funds is their own funds.  
25 Q. And if the Zero Balance Account  
203: 1 does not contain the funds with which  
2 to execute the payment order?  
3 A. KBC New York would look to see  
4 what the credit limit was on the ADB  
5 overdraft account. If there was  
6 availability under the ADB overdraft  
7 account, KBC could and at times did use  
8 its own funds intraday and then at the  
9 end of the day reconciled and settled  
10 with ADB and ADB would cover KBC, such  
11 that it was ADB funds and ADB retained  
12 the credit risk.  
13 Q. And why do you say "at times",  
14 as opposed to all the time?  
15 A. We had -- KBC New York had the  
16 right to make entries against the ADB  
17 account for the funds at any point in  
18 time, because the funds were available.  
19 We just -- for administrative purposes  
20 it was easier, instead of making  
21 multiple entries throughout the day  
22 because there could be debits and  
23 credits, depending upon the flow and  
24 funds in and out of the account. We  
25 did it -- it was administratively more  
204: 1 convenient to tend to do it at the end  
2 of the day and do it once. It saved --  
3 it save the -- in this case Lazare, in  
4 the sense that we didn't have to access



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**Pg: 200 Ln: 7 - Pg: 204 Ln: 23 continued...**

**Annotation:**

204: 5 the overdraft account, it saved them  
6 interest and also saved them fees and  
7 also saved ADB fees.  
8 Q. And when you say "it", you are  
9 referring to the reconciliation between  
10 KBC's funding of Lazare's payment order  
11 and KBC's -- and the settling of that  
12 transaction against the pooling  
13 account?  
14 A. Yeah.  
15 Q. And all that took place in New  
16 York?  
17 A. KBC New York handled its side of  
18 the transaction and ADB -- KBC handled  
19 everything with respect to the KBC New  
20 York DDA account for Lazare, and what  
21 you call the ADB pooling account. ADB  
22 in Belgium handled the ADB overdraft  
23 account.

**Pg: 205 Ln: 1 - Pg: 207 Ln: 9**

**Annotation:**

205: 1 Q. So the what I call the pooling  
2 account is the pooling account that is  
3 referred to in your Services Agreement,  
4 Ms. Grimmig --  
5 A. Right.  
6 Q. -- in case there is any  
7 question?  
8 A. Right.  
9 Q. You understand that?  
10 A. Yes.  
11 Q. Do you understand what the  
12 approximate amount of U.S.  
13 dollar-denominated transactions was  
14 that KBC New York executed for ADB and  
15 its customers in any given year during  
16 the relevant period of time?  
17 A. It would be -- through ADB's  
18 U.S. dollar account?  
19 Q. Yes.  
20 A. Billions of dollars.  
21 Q. And did all of those  
22 transactions flow through the ADB  
23 pooling account at KBC New York?  
24 A. If KBC New York was handling the  
25 U.S. dollar clearing activity on that  
206: 1 particular payment, yes. If they used

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**Pg: 205 Ln: 1 - Pg: 207 Ln: 9 continued...**

### Annotation:

206: 2 another bank, ADB used another U.S.  
3 clearing account with another bank, no.  
4 Q. Were clearing activities  
5 conducted through the pooling account  
6 as well as the operational banking  
7 services described in the Services  
8 Agreement?  
9 A. Yes.  
10 Q. So the pooling account was both  
11 a clearing account and a pooling  
12 account?  
13 A. KBC New York does not call it a  
14 pooling account. So I don't know where  
15 that term comes from. I'm not familiar  
16 with it.  
17 KBC New York had a U.S. dollar  
18 account for ADB that handled any U.S.  
19 dollar transactions that ADB processed  
20 through KBC New York.  
21 Q. And that would apply to all  
22 customers of ADB for which it processed  
23 transactions?  
24 A. If it processed through the ADB  
25 pooling account.  
207: 1 Q. So that would include customers  
2 around the world as well as based in  
3 New York, would it not?  
4 A. If it was a U.S. dollar payment  
5 that got processed through ADB's  
6 pooling account held at KBC New York,  
7 KBC New York handled it. If it went  
8 through another account at another  
9 bank, KBC New York had no involvement.

**Pg: 208 Ln: 7 - Pg: 211 Ln: 18**

### Annotation:

208: 7 Q. And dropping down to paragraph 2  
8 at the bottom of the first page of the  
9 Services Agreement you see the sentence  
10 that begins "KBC will accept and  
11 register all incoming funds via the  
12 customary channels, etcetera, in favor  
13 of the diamond clients"?  
14 A. A-hum.  
15 Q. What does that mean?  
16 A. It means that all  
17 incoming/outgoing payments flowing  
18 through Lazare's account would be --

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**Pg: 208 Ln: 7 - Pg: 211 Ln: 18 continued...**

### Annotation:

208:19 would be captured and kept.  
20 Q. What does "captured" mean,  
21 booked?  
22 A. Via -- well, it would be  
23 presented a payment order, we would  
24 have a copy of the payment order. We  
25 would have the debits and entries would  
209: 1 be reflected on our account statement  
2 that was furnished to the customer. So  
3 we would have copies of the customer's  
4 account statements.  
5 Q. So effectively, the monies that  
6 KBC accepted and registered were used  
7 to repay the customer's loans under  
8 their credit facilities with ADB,  
9 correct?  
10 A. It's one of the -- Lazare Kaplan  
11 -- if Lazare left any credit balances  
12 in its KBC New York DDA account at the  
13 end of the day those credit balances  
14 got moved and sent to ADB, but Lazare  
15 had the ability to leave no funds in  
16 the account at which point there would  
17 be no credit balances to use to pay  
18 amounts drawn under the ADB overdraft  
19 account.  
20 Q. Where does it say that in this  
21 agreement?  
22 A. It doesn't say it, but Lazare  
23 Kaplan -- Lazare controls the funds in  
24 its account. If it didn't want to have  
25 funds used to pay down an overdraft on  
210: 1 an overdraft account Lazare had the  
2 capability of withdrawing any credit  
3 balances and moving it into another  
4 bank account with another bank, so that  
5 there would be no credit balances and  
6 there would be no pay-down on the  
7 overdraft account.  
8 Q. According to this paragraph 2 of  
9 the Services Agreement, where KBC  
10 accepted incoming funds it was KBC that  
11 credited the customer's account on its  
12 books, correct?  
13 A. Correct.  
14 Q. It was KBC that sent a SWIFT  
15 message to ADB giving information  
16 regarding that credit, correct?  
17 A. Every time there was a credit to

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**Pg: 208 Ln: 7 - Pg: 211 Ln: 18 continued...**

**Annotation:**

210:18 the account we -- Lazare was notified  
19 and ADB was notified.  
20 Q. It was KBC that added  
21 information about the ordering customer  
22 of the payment, correct?  
23 A. For what type of payment?  
24 Q. Well, I'm referring you to the  
25 bottom of paragraph 2, top of page 2 of  
211: 1 the Services Agreement, in particular,  
2 the sentence "KBC also adds information  
3 about the ordering customer of the  
4 payment."  
5 A. That would be information that  
6 we received from Lazare who inputted it  
7 into the payment order.  
8 To the extent that it was  
9 contained within the payment order,  
10 which had to be because we would have  
11 to know who to make the payment to, we  
12 also informed ADB.  
13 Q. And you performed an AML or  
14 Compliance obligation or function with  
15 respect to the information about the  
16 customer or the source of funds?  
17 A. It was subject to our BSA AML  
18 OFAC program.

**Pg: 218 Ln: 14 - Pg: 219 Ln: 16**

**Annotation:**

218:14 Q. Does the account agreement say  
15 anything at all about zeroing out the  
16 account?  
17 A. I would have to read it but I  
18 don't recall off the top of my head.  
19 Q. The account agreement is the  
20 Exhibit A to your sworn Declaration,  
21 Ms. Grimmig.  
22 MR. FORESTA: Is there a  
23 question?  
24 MR. SULLIVAN: Yes.  
25 Does the account agreement allow  
219: 1 KBC New York to zero out Lazare's KBC  
2 New York account? Same question I asked  
3 before.  
4 A. The account agreement permits  
5 the debits and credits to the account  
6 which are evidenced in account  
7 statement. The account statement would

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**Pg: 218 Ln: 14 - Pg: 219 Ln: 16 continued...**

**Annotation:**

219: 8 have evidenced the zeroing out of  
9 Lazare's account at the end of the day.  
10 Q. What paragraph of the account  
11 agreement are you looking at?  
12 A. I'm just looking at the totality  
13 of the agreement.  
14 Q. Is there a specific reference to  
15 zeroing out in the agreement?  
16 A. No.

**Pg: 223 Ln: 7 - Pg: 226 Ln: 25**

**Annotation:**

223: 7 Q. Is there any other agreement  
8 that allowed KBC New York to zero out  
9 Lazare's account at the end of the day,  
10 beyond the account agreement and the  
11 bank statements that you referred to as  
12 the totality of the situation?  
13 A. Was the Letter Agreement between  
14 ADB and Lazare? I think --  
15 Q. That's Plaintiff's 55, one-page  
16 agreement.  
17 A. -- reflected the workings of the  
18 account too.  
19 Q. You are referring to the first  
20 sentence of Plaintiff's 55? Do you have  
21 the document in front of you? It's a  
22 one-page document.  
23 A. I think it's one of the tabs.  
24 MR. D'ANGELO: It should be  
25 separate.  
224: 1 A. Yes.  
2 Q. Okay. What language in the  
3 document are you relying on?  
4 A. The first sentence, the second  
5 half of the first sentence, "Same day  
6 debits or credits to our loan balance  
7 with Antwerp Diamond Bank NV.  
8 Q. So this document then pertains  
9 to the Lazare account at KBC New York  
10 as well, the operation of the Lazare  
11 account at KBC New York as well?  
12 A. Yes.  
13 Q. And did KBC New York and ADB  
14 exchange information pursuant to this  
15 document?  
16 A. Yes. As I stated, we shared  
17 information regarding debits and

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**Pg: 223 Ln: 7 - Pg: 226 Ln: 25 continued...**

**Annotation:**

224:18 credits to Lazare's DDA account with  
19 KBC New York, so corresponding entries  
20 could be made by ADB on its overdraft  
21 account.  
22 Q. And do you understand this  
23 document to require that all  
24 disbursements and payments under  
25 Lazare's credit facility with ADB have  
225: 1 to be effected through its account at  
2 KBC New York?  
3 A. No.  
4 Q. So directing your attention to  
5 the first sentence that reads "We  
6 hereby agree that all disbursements and  
7 payments under our credit facility with  
8 Antwerpse Diamantbank NV shall be  
9 effected through our account with KBC  
10 New York and New York branch etcetera",  
11 what part of that doesn't require  
12 Lazare to --  
13 A. You have to --  
14 Q. You have to let me finish.  
15 -- to effect all transactions  
16 through its account at KBC New York?  
17 A. You have to read the sentence in  
18 its totality. The first part makes no  
19 sense without the second part.  
20 Basically, what this is -- the  
21 purpose of this was to state to Lazare,  
22 if you wanted to receive funds under  
23 your overdraft account from ADB same  
24 day in real-time you had to effectuate  
25 those payment orders through the KBC  
226: 1 New York account.  
2 Q. The agreement, the word "all"  
3 refers to disbursement -- do you  
4 understand the word "all" to refer to  
5 disbursements and payments under the  
6 credit facility?  
7 A. You have to read the sentence in  
8 its totality. The second part of the  
9 sentence I believe qualifies the first  
10 part of the sentence.  
11 Q. So "all" doesn't mean "all"?  
12 A. I do know that Lazare, during  
13 the time of the overdraft account, did  
14 process payment orders directly to ADB.  
15 So I do not -- I don't think "all"  
16 means "all" here, because there was

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**Pg: 223 Ln: 7 - Pg: 226 Ln: 25 continued...**

**Annotation:**

226:17 activity to the contrary.  
18 Q. And when did that activity take  
19 place?  
20 A. I don't know.  
21 Q. Was Lazare free to disregard  
22 this agreement?  
23 A. It's an agreement between ADB  
24 and Lazare, so I cannot speak for ADB  
25 or Lazare.

**Pg: 228 Ln: 10 - 15**

**Annotation:**

228:10 Q. But KBC New York did not  
11 repudiate this agreement in any  
12 respect?  
13 A. No. It was a requirement in  
14 order to -- for Lazare to open and  
15 utilize the KBC ADB DDA account.

**Pg: 228 Ln: 16 - Pg: 230 Ln: 21**

**Annotation:**

228:16 Q. And directing your attention to  
17 paragraph 4 of your Declaration, Ms.  
18 Grimmig, do you see the sentence that  
19 begins "Contrary to the statement in  
20 the Moryto Affidavit, KBC was a primary  
21 banker to Lazare. KBC's branch only  
22 provided basic account service for  
23 Lazare's KBC account which were  
24 incidental to Lazare's bank account at  
25 Antwerp Bank."  
229: 1 A. Yes.  
2 Q. What is your basis for claiming  
3 that KBC was not Lazare's primary  
4 banker in New York?  
5 A. One, we knew that we were not  
6 the only banker that Lazare did  
7 business with in the U.S.; and two, we  
8 only furnished them with one bank  
9 product. We did not provide them or  
10 offer them our more prominent bank  
11 product and services provided by KBC  
12 New York.  
13 Q. Directing your attention to the  
14 Moryto Affidavit that you refer to in  
15 your Declaration, which is tab 116 of  
16 your big binder.

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**Pg: 228 Ln: 16 - Pg: 230 Ln: 21 continued...**

**Annotation:**

229:17 (Exhibit 116, Affidavit of  
18 William Moryto, was received and marked  
19 on this date for identification.)  
20 Q. Directing your attention to  
21 paragraph 20, page 8 of Mr. Moryto's  
22 Affidavit, would you read the first  
23 sentence?  
24 A. "In 2008 alone deposits into the  
25 KBC New York bank account from third  
230: 1 parties were approximately \$178.5  
2 million and disbursements to third  
3 parties were approximately \$178.2  
4 million."  
5 Q. Do you have any reason to  
6 believe that statement is not accurate?  
7 A. No.  
8 Q. Do you know how -- approximately  
9 how much money passed through Lazare's  
10 bank account at KBC New York during the  
11 relevant period of time?  
12 A. A couple hundred million.  
13 Q. Well, we know that 350-odd  
14 million --  
15 A. Okay.  
16 Q. -- of transactions took place in  
17 2008 alone?  
18 A. Okay.  
19 Q. So in the 11-year period do you  
20 have any idea?  
21 A. No.

**Pg: 233 Ln: 6 - 22**

**Annotation:**

233: 6 Q. Going back to paragraph 4 of  
7 your Declaration, do you see the  
8 sentence on page 2, three lines up from  
9 the bottom that reads "KBC did not make  
10 any loans or extend any credit to  
11 Lazare."  
12 A. Yes.  
13 Q. So is it correct, if I  
14 understand your testimony, that at the  
15 start of each day Lazare had a zero  
16 balance in its KBC New York bank  
17 account?  
18 A. Yes.  
19 Q. And when Lazare wanted to  
20 disburse funds it would send a transfer



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**Pg: 233 Ln: 6 - 22 continued...**

**Annotation:**

233:21 request to KBC New York?  
22 A. Yes.

**Pg: 234 Ln: 20 - Pg: 235 Ln: 9**

**Annotation:**

234:20 Q. Is it true, Ms. Grimmig, that  
21 KBC initially funded Lazare's payment  
22 requests with its own money?  
23 MR. FORESTA: Objection. Asked  
24 and answered.  
25 Q. You can answer the question.  
235: 1 A. On an intraday basis, if there  
2 was funds available in the ADB pooling  
3 account we, KBC, would use its own  
4 funds and then at the end of the day  
5 reconcile and settle and be reimbursed  
6 by ADB. So on a daily basis the credit  
7 risk always was retained by ADB because  
8 it was ultimately ADB funds that  
9 covered the payment orders.

**Pg: 255 Ln: 8 - Pg: 256 Ln: 21**

**Annotation:**

255: 8 Q. Is it the case or is it correct  
9 that each time the amount of Lazare's  
10 credit facility was increased the  
11 increase was approved by KBC or a  
12 committee at KBC?  
13 A. If it met certain criteria.  
14 Q. Do you recall what the initial  
15 amount of the credit facility was?  
16 A. It's in one of the documents  
17 produced.  
18 Q. If I suggested to you that it  
19 was \$10 million, would that refresh  
20 your recollection?  
21 A. No. I believe it was more than  
22 that.  
23 Q. Can you walk us through the  
24 process by which ADB would obtain KBC  
25 approval of the increase in the amount  
256: 1 of the credit facility?  
2 A. Any increase in the credit  
3 facility would be processed in a  
4 similar manner to an initial grant of  
5 credit. ADB would make a decision as to  
6 whether or not it wanted to increase

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**Pg: 255 Ln: 8 - Pg: 256 Ln: 21 continued...**

**Annotation:**

256: 7 the credit limit. If it decided to do  
8 so, ADB would write a credit  
9 application or a credit memo and it  
10 would get submitted to the appropriate  
11 Credit Committee.  
12 The determination of the  
13 appropriate Credit Committee was -- is  
14 based upon several factors; one,  
15 probability of default; loss given  
16 default; and group exposure. So the  
17 decision might have been made at the  
18 local committee at ADB or if based upon  
19 the factors it might have needed to be  
20 escalated up to a Credit Committee  
21 located at KBC Belgium.

**Pg: 260 Ln: 14 - Pg: 261 Ln: 9**

**Annotation:**

260:14 Q. And going back for a moment to  
15 the Service Agreement --  
16 A. Yes.  
17 Q. -- paragraph 2, the paragraph  
18 that begins "KBC will accept and  
19 registrate all incoming funds,  
20 etcetera", would a payment by a third  
21 party for diamonds sold by Lazare be an  
22 example of incoming funds under this  
23 paragraph?  
24 A. If Lazare sold -- sorry. Could  
25 you ask the question --  
261: 1 Q. Would a payment by a third party  
2 for diamonds sold by Lazare be an  
3 example of incoming funds under this  
4 paragraph 2 of the Services Agreement?  
5 A. The positive funds from any  
6 transaction that Lazare had with its  
7 counterpart that it directed that  
8 counterpart to deposit funds into the  
9 DDA account, yes.

**Pg: 264 Ln: 5 - Pg: 265 Ln: 11**

**Annotation:**

264: 5 Q. Well, in this particular case  
6 I'm directing your attention to  
7 paragraph 10 of your Declaration, in  
8 which you are describing the manner in  
9 which KBC New York effectuated

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**Pg: 264 Ln: 5 - Pg: 265 Ln: 11 continued...**

**Annotation:**

264:10 payments --  
11 A. Okay.  
12 Q. -- as per the Services  
13 Agreement, payments requested by  
14 Lazare.  
15 A. Okay. So if we received a  
16 payment order the first thing we check  
17 is to whether or not there were funds  
18 in the account. If there was not  
19 sufficient funds in the account to  
20 cover the payment order, then KBC New  
21 York would look at the credit limit  
22 under the overdraft account with ADB.  
23 If there was availability under that  
24 overdraft account, then KBC could  
25 either -- would on an intraday basis  
265: 1 or -- we could have debited ADB's  
2 account right then and there or more  
3 often than not for administrative  
4 convenience purposes we would fund --  
5 KBC New York would fund the payment  
6 order and then at the end of the day we  
7 would reconcile and do a final  
8 settlement and withdraw the funds out  
9 of the ADB account to cover KBC New  
10 York so that the credit risk always  
11 remained with ADB.

**Pg: 271 Ln: 19 - Pg: 272 Ln: 9**

**Annotation:**

271:19 Q. Let me see if I understand your  
20 testimony correctly.  
21 We know that KBC New York  
22 initially funded Lazare's payment  
23 request, correct?  
24 A. As long as there was  
25 availability under the overdraft  
272: 1 account, as long as there was dollars  
2 in ADB's pooling account.  
3 At times KBC New York would use  
4 its funds on an intraday basis to cover  
5 any payment orders, and that at the end  
6 of day KBC New York would do one final  
7 reconciliation and settlement and ADB  
8 would pay KBC New York to make KBC New  
9 York whole.

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**Pg: 272 Ln: 22 - Pg: 273 Ln: 11**

**Annotation:**

272:22 Q. Isn't it also true that KBC  
23 funded those requests even when there  
24 weren't sufficient funds in the ADB  
25 pooling account to cover the request?  
273: 1 Isn't that the point of this language  
2 about overnight placements on money  
3 market interest rates?  
4 A. If there was insufficient funds  
5 in the ADB pooling account, KBC New  
6 York had an overdraft or a credit line  
7 for ADB that we could cover the  
8 shortage of funds. It didn't  
9 necessarily have to be Lazare. It  
10 related to any of ADB's transactions,  
11 U.S. dollar transactions.

**Pg: 275 Ln: 11 - Pg: 280 Ln: 7**

**Annotation:**

275:11 Q. Okay. Would you look -- turn to  
12 Exhibit 8 in your binder, please?  
13 A. Sure.  
14 Q. Tell me whether you can identify  
15 this document?  
16 A. It's a -- it's a memo written by  
17 Maiike Maeckelbergh.  
18 Q. And who are Greg, Barbara and  
19 Donna referred to in this document?  
20 A. Greg is Greg Boston, who is the  
21 head of cash management/payments;  
22 Barbara worked in the back office and  
23 so did Bob Quintin, they might have  
24 worked for Greg Boston. I'm not too  
25 sure who Donna is.  
276: 1 Q. And directing your attention to  
2 the first sentence, do you see the  
3 reference to ICM, "Kindly note that ICM  
4 has made a new account operational"?  
5 A. Yes.  
6 Q. What is ICM?  
7 A. It stands for International Cash  
8 Management.  
9 Q. And what is that?  
10 A. That is the unit that handled  
11 DDA accounts.  
12 Q. The unit at KBC New York?  
13 A. The unit at KBC New York.  
14 Q. And why was Maaike notifying  
15 Greg, Barbara and Donna that ICM had

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**Pg: 275 Ln: 11 - Pg: 280 Ln: 7 continued...**

### Annotation:

276:16 made Lazare's bank accounts at KBC New  
17 York operational?  
18 A. Because they would have needed  
19 to inform the back office people to put  
20 a limit on the DDA account.  
21 Q. And does the number from the  
22 second line from the top, 24079801, is  
23 that the account number assigned by KBC  
24 New York to Lazare's bank account?  
25 A. Yes.  
277: 1 Q. And directing your attention to  
2 the very last sentence that reads  
3 "Payments to accounts at ADB are done  
4 by book transfer to ADB's account  
5 11743901", is that a reference to ADB's  
6 pooling account at KBC New York?  
7 A. I believe so.  
8 Q. Can you explain what that last  
9 sentence means?  
10 A. KBC New York did not deal in  
11 physical cash, so movement of funds,  
12 transfer of funds, was done by book  
13 entries. Another word for book entry  
14 would be a book transfer.  
15 Q. Is that a correspondent bank  
16 function?  
17 MR. FORESTA: Objection.  
18 A. It's a function for any bank  
19 account, whether it's correspondent or  
20 DDA.  
21 Q. If Lazare Kaplan Belgium, which  
22 did not have a KBC New York bank  
23 account, requested a U.S. dollar  
24 transfer from ADB, was that transfer  
25 initially funded by KBC New York?  
278: 1 A. No.  
2 Q. Who funded it?  
3 A. ADB.  
4 Q. ADB funded a U.S. dollar  
5 transfer?  
6 A. ADB had a U.S. dollar account  
7 with KBC New York with U.S. dollars in  
8 it.  
9 Q. Did ADB then fund that request  
10 by and through its New York bank  
11 account at KBC New York?  
12 MR. FORESTA: Objection. You can  
13 answer.  
14 A. KBC New York would have been the

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**Pg: 275 Ln: 11 - Pg: 280 Ln: 7 continued...**

**Annotation:**

278:15 intermediary bank. So ADB, as the  
16 originating bank, would have sent wire  
17 instructions naming KBC New York as  
18 intermediary bank and then would name  
19 who the beneficiary bank. And so KBC  
20 just moved U.S. dollar funds from ADB's  
21 account to the beneficiary bank's  
22 account.  
23 Q. And would the same be true of  
24 other diamond customers of ADB who did  
25 not have a bank account at KBC New  
279: 1 York, would KBC New York reconcile at  
2 the end of the day with ADB transfers  
3 made using ADB's pooling account in New  
4 York?  
5 A. Assuming that ADB transmitted  
6 the wire transfer through KBC New York  
7 and not through another U.S. Bank.  
8 Q. And similarly or  
9 correspondingly, if a customer of ADB  
10 received a deposit in U.S. dollars from  
11 a third party and that customer did not  
12 have a KBC New York bank account, was  
13 the transaction processed through the  
14 ADB pooling account at KBC New York?  
15 A. Not necessarily.  
16 Q. Could it have been?  
17 A. It could have been.  
18 Q. Under what circumstances would  
19 it not have been processed through the  
20 ADB pooling account at KBC New York?  
21 A. ADB would have had to give  
22 wiring instructions. If it named KBC  
23 New York as the intermediary bank, then  
24 the funds would have flowed through KBC  
25 New York.  
280: 1 Q. To the extent that funds  
2 generated by transactions of ADB  
3 customers flowed through New York, were  
4 they all processed through the ADB  
5 pooling account at KBC New York?  
6 A. Any -- ADB only had the one  
7 account. So, yes.

**Pg: 287 Ln: 9 - 22**

**Annotation:**

287: 9 Q. You don't consider the initial  
10 funding by KBC to be an extension of

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**Pg: 287 Ln: 9 - 22 continued...**

**Annotation:**

287:11 credit to Lazare, Ms. Grimmig?  
12 A. No.  
13 Q. From Lazare's perspective who  
14 was funding its drawdown requests under  
15 the credit facility?  
16 MR. FORESTA: Objection.  
17 A. ADB.  
18 Q. Really? Even though KBC advanced  
19 the money?  
20 A. KBC temporarily advanced funds  
21 on an intraday basis, but at the end of  
22 each day it was ADB's funds.

**Pg: 306 Ln: 13 - Pg: 309 Ln: 19**

**Annotation:**

306:13 Q. And if a customer of Lazare,  
14 such as an Erez Daleyot affiliated  
15 company, DD or KT, for example,  
16 transferred money to New York, to and  
17 through the ADB pooling account, would  
18 KBC New York maintain records of that  
19 transaction?  
20 MR. FORESTA: Objection. You can  
21 answer.  
22 A. We would have retained the SWIFT  
23 payment message.  
24 Q. I'm sorry?  
25 A. We would have retained the SWIFT  
307: 1 payment message.  
2 Q. You'd also have a record of the  
3 transaction in the pooling account  
4 statements, wouldn't you?  
5 A. Yes. There would be an entry.  
6 Can I step back?  
7 Q. Sorry?  
8 A. On that question who was  
9 originating the funds transfer and from  
10 what account?  
11 Q. Let's use a specific example, if  
12 we could. Can you turn to I think it's  
13 Exhibit 58 in your big binder?  
14 So directing your attention to  
15 Plaintiff's Exhibit 58, is this an  
16 account statement, albeit redacted for  
17 ADB's pooling account at KBC New York,  
18 Ms. Grimmig?  
19 A. Yes.  
20 Q. And does this account statement

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**Pg: 306 Ln: 13 - Pg: 309 Ln: 19** continued...

### Annotation:

307:21 indicate to you that two transactions  
22 of the companies known as KT Collection  
23 and DD Manufacturing went through the  
24 ADB pooling account at KBC New York?  
25 A. Yes.

308: 1 Q. And does the fact that both  
2 transactions went through the ADB  
3 pooling account mean that DD and KT had  
4 a bank account at KBC New York?  
5 A. No. They did not.  
6 Q. Does it mean that their  
7 transactions were executed ADB's  
8 pooling account at KBC New York?  
9 A. They were executed through ADB's  
10 pooling account as a non-customer.  
11 Q. And this pooling account record  
12 is a document maintained by KBC New  
13 York in New York?  
14 A. Yes.  
15 Q. And you consider that to be a  
16 "routine" --  
17 MR. FORESTA: -- clearance  
18 procedure.  
19 MR. SULLIVAN: -- clearance  
20 procedure. Thank you so much, counsel.  
21 MR. FORESTA: Not that I'm in a  
22 rush or anything.  
23 A. Yes. It's standard practice for  
24 every account to issue an account  
25 statement on a -- I believe this was a  
309: 1 monthly basis.  
2 Q. So this is an example of the ADB  
3 pooling account being used for U.S.  
4 dollar-denominated transactions of  
5 non-New York-based ADB clients,  
6 correct?  
7 A. This is reflecting -- all I can  
8 tell you is it's reflecting a U.S.  
9 dollar transaction involving  
10 non-customers of KBC New York.  
11 Q. Are you familiar with the  
12 entities known as DD Manufacturing and  
13 KT Collection?  
14 A. I believe their names were  
15 mentioned in the Complaint letter  
16 Lazare filed with the New York State  
17 Department of Financial Services and  
18 are in the legal Complaint for this  
19 litigation.



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**Pg: 321 Ln: 12 - 22**

**Annotation:**

321:12 Q. Are you testifying today as a  
13 30(b)(6) witness on behalf of KBC or  
14 KBC New York?  
15 A. On behalf of KBC -- KBC Bank NV,  
16 which includes its New York branch.  
17 Q. Did you go over each of the  
18 topics set forth in the Amended Notice  
19 of Deposition in preparation for your  
20 testimony today?  
21 A. I read the topics, yes. I read  
22 the description of topics.